

# Calendar No. 163

82D CONGRESS  
1st Session

SENATE

REPORT  
No. 174

DIRECTING THAT THERE SHALL ACCOMPANY EVERY CONFERENCE REPORT A STATEMENT EXPLAINING THE EFFECT OF THE ACTION AGREED ON BY THE COMMITTEE OF CONFERENCE

MARCH 14 (legislative day, MARCH 12), 1951.—Ordered to be printed

Mr. HAYDEN, from the Committee on Rules and Administration, submitted the following

## REPORT

[To accompany S. Con. Res. 1

The Committee on Rules and Administration, to whom was referred the concurrent resolution (S. Con. Res. 1) directing that there shall accompany every report of a committee of conference a statement explaining the effect of the action agreed on by the committee, having considered the same, report favorably thereon, without amendment, and recommend that it be agreed to by the Senate.

This resolution is identical with Senate Concurrent Resolution 79, which was agreed to by the Senate in the Eighty-first Congress. In response to a request from the chairman of the Committee on Rules and Administration, the Office of the Legislative Counsel last year prepared and submitted a memorandum relating to the adoption of a rule requiring every report of a committee of conference to be accompanied by a statement in writing, and signed by at least a majority of the managers on the part of each House, explaining the effect of the action agreed on by the committee. This memorandum notes the adoption of a similar requirement by the House of Representatives some 70 years ago, contains a concise history of such a rule, and presents certain reasons why Senate Concurrent Resolution 79, Eighty-first Congress (now S. Con. Res. 1, 82d Cong.), should be agreed to by both Houses of Congress.

### MEMORANDUM FOR THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

This memorandum is submitted in response to the request of the chairman for our views with respect to the desirability of enacting Senate Concurrent Resolution 79. The resolution reads as follows:

*"Resolved by the Senate (the House of Representatives concurring), That there shall accompany every report of a committee of conference a statement, in*

writing and signed by at least a majority of the managers on the part of each House, explaining the effect of the action agreed on by the committee.

"SEC. 2. The foregoing section shall be a rule of each House, respectively, and shall supersede any other rule thereof but only to the extent that it is inconsistent with such other rule."

As a result of complaints made by various Members of the House of Representatives some 70 years ago, the House adopted a rule on February 27, 1880 (10 Congressional Record 1203), requiring every conference report to be accompanied by "a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions (i. e. contained in the conference report) will have upon the measures to which they relate." This rule is still in effect, without change, and is a part of rule XXVIII of the Standing Rules of the House. It has been interpreted by the House to require the statement to be in writing and signed by at least a majority of the House conferees. The House has also held that a conference report is subject to a point of order unless such statement accompanies it.

It is interesting to note that the rule as first proposed related to the conference report itself and was objected to by Mr. Blackburn on the ground that it proposed to bind the conferees on the part of the Senate as well as of the House. Mr. Blackburn stated:

"A conference report means the report of the conference committee of the two Houses. The reports to the two Houses must be duplicates, the one of the other. There cannot be a syllable in the conference report made to this House that is not embraced in the report made to the Senate. We cannot compel the Senate to do what is here suggested; but I pledge myself I will use my best endeavor as a member of the Committee on Rules and of the Joint Committee on Rules to have this incorporated into a joint rule to govern the two Houses. While assenting to the idea of the gentleman from Wisconsin, I am in favor of so modifying his amendment as to require the House members of the committee of conference to furnish with each conference report an explanation by a statement in detail of the points in controversy covered by such report" (10 Congressional Record 1203).

The House then proceeded to accept a substitute offered by Mr. Blackburn, which is the present rule.

Over the years, and especially in more recent years, the courts have come to use the statement of the managers with increasing frequency as an extrinsic aid in helping them determine the intent of Congress. The courts give as much weight to such statement as they do to the committee reports prepared by the standing committees which accompany proposed legislation reported out of such committees. In instances where a bill is almost completely rewritten in conference, the statement is the best extrinsic aid available to the court in determining intent.

Since the statement has become, and will continue to be, an important part of the legislative history of enactments of the Congress, it would seem desirable to have the Senate conferees join with the House conferees in writing such statement. As a practical matter, the Senate conferees can today insist upon collaboration with the House conferees on the text of the statement, since they can refuse to agree to the conference report unless an agreement can be reached as to the matter to be included in the statement. However, in the interest of orderly parliamentary procedure, a change in the rules such as is proposed in the pending resolution would seem to be the better approach.

As the committee will remember, after the conference report on the Fair Labor Standards Amendments of 1949 was adopted in the Senate last year, a detailed statement explaining the contents of the conference report was submitted on behalf of a majority of the Senate conferees. (See Congressional Record, October 19, 1949, pp. 15371-15377.) Such statement did not interpret the text of the conference report in the same manner as such report was interpreted by the statement of the managers on the part of the House. Senator Taft, who was a member of the conference but who did not join in the statement submitted on behalf of the majority of the Senate conferees, took issue with some of the interpretations contained in such statement and subsequently inserted in the record his own views with respect to the interpretation of certain portions of the report. (See Congressional Record, February 16, 1950, appendix, pp. 1162, 1163.)

Unless the courts, the administrative agencies, and the practicing attorney can go to one statement, joined in by a majority of the conferees of both Houses, for a determination of the intent of Congress, they are faced with an unnecessary and

difficult problem in attempting to determine such intent. It is quite possible, in a case such as the one referred to above, that a court would feel it necessary to disregard all such explanatory statements containing conflicting interpretations and exercise its own judgment as to intent which conceivably could be contrary to the intent of a majority of the Congress.

For the above reasons we feel that the pending resolution is a step in the right direction and a desirable change in the rules.

Respectfully,

S. E. RICE, *Legislative Counsel.*

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REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

The Commission has the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the matter of the proposed extension of the boundary of the National Park, and in reply to inform you that the same has been referred to the proper authorities for their consideration. The Commission is also in receipt of a letter from the Secretary of the Interior, dated the 12th inst., in relation to the same matter, and in reply to inform you that the same has been referred to the proper authorities for their consideration. The Commission is also in receipt of a letter from the Secretary of the Interior, dated the 12th inst., in relation to the same matter, and in reply to inform you that the same has been referred to the proper authorities for their consideration.

Very respectfully,  
J. M. Smith, Commissioner